



Journal of the Senate

State of Indiana

114th General Assembly

First Regular Session

Twenty-second Meeting Day

Monday Afternoon

February 21, 2005

The Senate convened at 1:34 p.m., with the President of the Senate, Rebecca S. Skillman, in the Chair.

Prayer was offered by Reverend Mark Wilkinson, Kouts Christian Church, Kouts, the guest of Senator Victor R. Heinold.

The Pledge of Allegiance to the Flag was led by Senator Heinold.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Antich-Carr	Lubbers
Bowser	Lutz
Bray	Meeks
Breaux	Merritt
Brodén	Miller
Clark	Mishler
Craycraft	Mrvan
Dillon	Nugent
Drozda	Paul
Ford	Riegsecker
Gard	Rogers
Garton	Server
Harrison	Simpson
Heinold	Sipes
Hershman	Skinner
Howard	Smith
Hume	Steele
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 158: present 50. The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 33

Senate Concurrent Resolution 33, introduced by Senator Miller:

A CONCURRENT RESOLUTION memorializing Army Private Cory R. Depew.

Whereas, Army Private Cory R. Depew was born December 2, 1983 and was killed January 4, 2005;

Whereas, Private Depew was killed by Iraqi insurgents in a gunfire and rocket-propelled grenade attack while on a scouting mission about 40 miles west of Mosul;

Whereas, Private Depew, who was deployed to Iraq slightly more than three months before his death, was a scout assigned to the 2nd Squadron, 14th Cavalry Regiment, 1st Brigade, 25th Infantry Division at Fort Lewis, Washington;

Whereas, As a scout, Private Depew provided reconnaissance and surveillance, one of the military's most dangerous duties;

Whereas, Private Depew was a loving, caring person who gave of himself freely in order to make the lives of those around him happier;

Whereas, While home on leave in late September, Private Depew helped build a peace garden at Holy Name Church in Beech Grove and visited Holy Name School, where he discussed going to Iraq and his Army training with several classes;

Whereas, Private Depew knew that his job was dangerous but was willing to put his life on the line in defense of his country;

Whereas, The Indiana General Assembly wishes to acknowledge this brave soldier who was a devoted father, son, and brother and to give him the recognition due to someone who laid down his life protecting our freedom; and

Whereas, Our nation shall never forget the brave men and women who serve in Iraq and the families and friends of those who do not return: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the members of the Indiana General Assembly wish to express their sympathy to the family of Private Cory R. Depew and recognize the sacrifice he made in a far away land so that we can continue to enjoy our freedom.

SECTION 2. That copies of this resolution be transmitted by the Secretary of the Senate to Private Depew's son, Brendan Faver; his mother, Sheryl Ann May; brothers, Wyatt and Elliott; and grandfather, Austin Hall.

The resolution was read in full and adopted by standing vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsor: Representative Buell.

Senate Resolution 14

Senate Resolution 14, introduced by Senator Alting:

A SENATE RESOLUTION honoring Charles R. Drysdale for his service in the United States Marine Corps during World War II.

Whereas, Charles R. Drysdale enlisted in the U.S. Marine Corps in 1943 at the age of 18;

Whereas, Mr. Drysdale was an amphibious tractor driver in the Pacific Theater in Hawaii, the Marshall Islands, Mariana Islands, Saipan, and Tinian;

Whereas, Mr. Drysdale contracted mononucleosis and rheumatic fever during his tour of duty and was granted an Honorable Medical Discharge in 1945;

Whereas, Mr. Drysdale participated in the Veterans History Project at the American Folklife Center of the Library of Congress. He has also been a continuous member in good standing of The American Legion for over 50 years; and

Whereas, Mr. Drysdale still proudly displays his patriotism by maintaining a "Patriotic Garden" for all to enjoy: Therefore,

*Be it resolved by the Senate of the
General Assembly of the State of Indiana:*

SECTION 1. That the Indiana Senate recognizes Charles R. Drysdale for his service in the United States Marine Corps during World War II.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Charles R. Drysdale.

The resolution was read in full and adopted by voice vote.

REPORTS FROM COMMITTEES**COMMITTEE REPORT**

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Concurrent Resolution 31, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said resolution do pass.
Committee Vote: Yeas 7, Nays 0.

WEATHERWAX, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill 126, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.
Committee Vote: Yeas 9, Nays 0.

WEATHERWAX, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill 447, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17

Delete pages 2 through 3.

Page 4, delete lines 1 through 24.

Renumber all SECTIONS consecutively.

(Reference is to SB 447 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

WEATHERWAX, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill 575, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

WEATHERWAX, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill 141, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 17, after "equal" insert "**initially**".

(Reference is to SB 141 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

HARRISON, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Resolution 11, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said resolution do pass.
Committee Vote: Yeas 10, Nays 0.

HARRISON, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Resolution 10, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said resolution do pass.
Committee Vote: Yeas 10, Nays 0.

HARRISON, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill 20, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 21, after "amount" insert "**described in subsection (c)**".

Page 2, between lines 21 and 22, begin a new paragraph and insert:

"(c) An employer making a deduction from an employee's unpaid wages under subsection (b) is limited to deductions for the purposes for which a wage assignment may be made under IC 22-2-6-2(b)."

Page 2, line 22, delete "(c)" and insert "(d)".

Page 2, line 27, delete "(d)" and insert "(e)".

Page 2, between lines 33 and 34, begin a new paragraph and insert:

"(f) This subsection applies only to an employee whose average weekly wage from an employer is less than one thousand dollars (\$1,000) per week. If a court finds that an employer's failure to pay an employee's wages as set forth in section 1 of this chapter did not occur in good faith, the court may order the employer to pay:

(1) not more than two (2) times the amount of unpaid wages owed the employee; and

(2) reasonable attorney's fees."

Page 2, line 34, delete "(e)" and insert "(g)".

(Reference is to SB 20 as printed February 9, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 3.

HARRISON, Chair

Report adopted.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed House Bills 1250, 1746, and 1776 and the same are herewith transmitted to the Senate for further action.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolution 35 and the same is herewith returned to the Senate.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE GOVERNOR

Madam President and Members of the Senate: On February 17, 2005, I signed the following enrolled act into law: HEA 1022.

MITCHELL E. DANIELS, JR.
Governor

1:53 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 3:49 p.m., with Senator Garton in the Chair.

RESOLUTIONS ON THIRD READING

Engrossed Senate Joint Resolution 7

Senator Hershman called up Engrossed Senate Joint Resolution 7 for third reading:

A JOINT RESOLUTION proposing an amendment to Article 1 of the Constitution of the State of Indiana concerning the definition of marriage.

Be it resolved by the General Assembly of the State of Indiana:

SECTION 1. The following amendment to the Constitution of the State of Indiana is proposed and agreed to by this, the One Hundred Fourteenth General Assembly of the State of Indiana, and is referred to the next General Assembly for reconsideration and agreement.

SECTION 2. ARTICLE 1 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS: **Section 38. (a) Marriage in Indiana consists only of the union of one man and one woman.**

(b) This Constitution or any other Indiana law may not be construed to require that marital status or the legal incidents of marriage be conferred upon unmarried couples or groups.

The resolution was read in full and placed upon its passage. The question was, Shall the resolution pass? Roll Call 159: yeas 42, nays 8. The resolution was declared passed. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Turner, Burton, Borders, and Ruppel.

SENATE BILLS ON SECOND READING

Senate Bill 7

Senator Wyss called up Senate Bill 7 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 13

Senator Zakas called up Senate Bill 13 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 54

Senator Riegsecker called up Senate Bill 54 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 76

Senator M. Young called up Senate Bill 76 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 198

Senator Zakas called up Senate Bill 198 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 218

Senator Nugent called up Senate Bill 218 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 218-1)

Madam President: I move that Senate Bill 218 be amended to read as follows:

Page 1, line 5, reset in roman "Except as provided in subsection".

Page 1, line 5, after "(c)," insert "(e)".

Page 1, line 5, delete "Evidence" and insert "evidence".

Page 1, line 6, reset in roman "1,".

Page 1, line 6, after "2", insert ",".

Page 1, line 6, reset in roman "3, or 4".

Page 1, line 7, reset in roman "not".

Page 2, after line 7, begin a new paragraph and insert:

"(e) Evidence of failure to comply with section 2 of this chapter may be admitted in a civil action to reduce the amount of damages that would otherwise be awarded to a person, if:

(1) the person has signed an admission that the person violated section 2 of this chapter; or

(2) a court has entered judgment against the person for a violation of section 2 of this chapter."

(Reference is to SB 218 as printed February 18, 2005.)

WATERMAN

Upon request of Senator Waterman the President ordered the roll of the Senate to be called. Roll Call 160: yeas 11, nays 39. Motion failed. The bill was ordered engrossed.

Senate Bill 231

Senator Lubbers called up Senate Bill 231 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 242

Senator Long called up Senate Bill 242 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 244

Senator Long called up Senate Bill 244 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 245

Senator Long called up Senate Bill 245 for second reading. The

bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 307

Senator M. Young called up Senate Bill 307 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 307-1)

Madam President: I move that Senate Bill 307 be amended to read as follows:

Page 3, after line 7, begin a new paragraph and insert:

"(d) If the assessed valuation of a taxing unit is entirely contained within an excluded city or town (as described in IC 36-3-1-7) which is located in a county having a consolidated city, the governing body of the taxing unit shall submit its proposed operating and maintenance budget and tax levies to the city or town fiscal body."

(Reference is to SB 307 as printed February 11, 2005.)

M. YOUNG

Motion prevailed. The bill was ordered engrossed.

Senate Bill 310

Senator Gard called up Senate Bill 310 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 310-3)

Madam President: I move that Senate Bill 310 be amended to read as follows:

Page 2, line 5, delete "conducts" and insert "participates in".

Page 2, line 15, delete "by intermediary,".

Page 2, line 16, delete "." and insert ", excluding electronic mail."

Page 2, line 24, delete "or".

Page 2, line 25, delete "." and insert "; or".

Page 2, between lines 25 and 26, begin a new line block indented and insert:

"(5) a meeting between one (1) member of the governing body and at least one (1) other individual who is not a member of the governing body concerning public business."

(Reference is to SB 310 as printed February 11, 2005.)

GARD

Motion prevailed.

SENATE MOTION
(Amendment 310-2)

Madam President: I move that Engrossed Senate Bill 310 be amended to read as follows:

Page 2, line 1, after "IC 20-12-0.5-1)" insert "**or a governing body of a joint agency created under IC 8-1-2.2**".

(Reference is to SB 310 as printed February 11, 2005.)

GARD

Motion prevailed. The bill was ordered engrossed.

Senate Bill 326

Senator Server called up Senate Bill 326 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 363

Senator Broden called up Senate Bill 363 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 371

Senator Kenley called up Senate Bill 371 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 421

Senator Lawson called up Senate Bill 421 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 424

Senator Clark called up Senate Bill 424 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 428

Senator Miller called up Senate Bill 428 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 467

Senator Miller called up Senate Bill 467 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 472

Senator Lanane called up Senate Bill 472 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 474

Senator Simpson called up Senate Bill 474 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senator Garton yielded the gavel to Senator Riegsecker.

Senate Bill 483

Senator Heinold called up Senate Bill 483 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 483-4)

Madam President: I move that Senate Bill 483 be amended to read as follows:

Page 1, line 4, delete "or documents".

Page 1, line 4, delete "satisfy" and insert "satisfies".

Page 1, delete lines 5 through 17.

Page 2, delete lines 1 through 35, begin a new line block indented and insert:

"(1) The document shows the name of the individual to whom the document was issued, and the name conforms to the name in the individual's voter registration record.

(2) The document shows a photograph of the individual to whom the document was issued.

(3) The document includes an expiration date, and the document:

(A) is not expired; or

(B) expired after the date of the most recent general election.

(4) The document was issued by the United States or the state of Indiana.

SECTION 2. IC 3-10-1-7.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7.2. (a) A voter who desires to vote an official ballot at a primary election shall provide proof of identification (as defined in IC 3-5-2-40.5).**

(b) Before the voter proceeds to vote in a primary election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter must produce the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification presented by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by IC 3-11-8.

(d) If the voter executes a challenged voter's affidavit under section 9 of this chapter or IC 3-11-8-22, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot."

Page 2, line 37, after "(a)" insert **"A voter who desires to vote an official ballot at an election shall provide proof of identification (as defined in IC 3-5-2-40.5).**

(b) Before the voter proceeds to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(d) If the voter executes a challenged voter's affidavit under section 22 of this chapter, the voter may:

- (1) sign the poll list; and
 - (2) receive a provisional ballot.
- (e)".

Page 2, line 38, strike "admitted".

Page 2, line 39, strike "to the polls. Upon entering the polls, the" and insert **"instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The"**.

Page 3, line 3, strike "(b)" and insert "(f)".

Page 3, delete lines 11 through 13.

Page 3, line 14, delete "(d)" and insert "(g)".

Page 3, line 22, delete "present" and insert **"present, in addition to the proof of identification required under subsection (b),"**.

Page 3, line 23, delete "(e)" and insert "(h)".

Page 3, line 24, delete "(e)" and insert "(h)".

Page 3, line 25, after "42 U.S.C. 15483," insert **"in addition to the proof of identification required under subsection (b),"**.

Page 3, line 33, delete "(f)" and insert "(i)".

Page 3, line 34, delete "(e)," and insert "(h),".

Page 3, line 39, delete "(g)" and insert "(j)".

Page 3, line 40, delete "(e)" and insert "(h)".

Page 4, line 2, delete "(h)" and insert "(k)".

Page 4, line 6, delete "(i)" and insert "(l)".

Page 4, line 20, delete "(j)" and insert "(m)".

Page 4, line 20, delete "(i):" and insert "(l):".

Page 4, line 26, delete "(k)" and insert "(n)".

Page 4, between lines 29 and 30, begin a new paragraph and insert:

"(b) A voter who desires to vote an official ballot at an election shall provide proof of identification (as defined in IC 3-5-2-40.5).

(c) Before the voter proceeds to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(d) If:

- (1) the voter is unable or declines to present the proof of identification; or**
 - (2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;**
- a member of the precinct election board shall challenge the voter as prescribed by this chapter.**

(e) If the voter executes a challenged voter's affidavit under section 22 of this chapter, the voter may:

- (1) sign the poll list; and**
- (2) receive a provisional ballot."**

Page 4, line 30, strike "(b)" and insert "(f)".

Page 4, line 31, strike "admitted to the polls. Upon entering the polls, the" and insert **"instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The"**.

Page 4, line 37, delete "(g)," and insert "(j),".

Page 4, line 39, strike "(c)" and insert "(g)".

Page 5, delete lines 5 through 7.

Page 5, line 8, delete "(e)" and insert "(h)".

Page 5, line 16, delete "(f)" and insert "(i)".

Page 5, line 16, strike "(c):" and insert "(g):".

Page 5, line 22, delete "(g)" and insert "(j)".

Page 5, delete lines 27 through 34, begin a new paragraph and insert:

"SECTION 5. IC 3-11-8-25.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.2. (a) This section applies after December 31, 2005.

(b) The poll clerk or assistant poll clerk shall examine the list provided under IC 3-7-29-1 to determine if the county election board has indicated that the voter is required to provide additional personal identification under 42 U.S.C. 15483 and IC 3-7-33-4.5 before voting in person. If the list (or a certification concerning absentee voters under IC 3-11-10-12) indicates that the voter is required to present this identification before voting in person, the poll clerk shall advise the voter that the voter must present, in addition to the proof of identification required by section 25.1(b) of this chapter, a piece of identification described in subsection (c) to the poll clerk.

(c) As required by 42 U.S.C. 15483, and in addition to the proof of identification required by section 25.1(b) of this chapter, a voter described by IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5 before appearing at the polls on election day must present one (1) of the following documents to the poll clerk:

- (1) A current and valid photo identification.**
- (2) A current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.**

(d) If a voter presents a document under subsection (c), the poll clerk shall add a notation to the list indicating the type of document presented by the voter. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

(e) If a voter required to present documentation under subsection (c) is unable to present the documentation to the poll clerk while present in the polls, the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the voter under IC 3-11-7-2.

(f) The precinct election board shall advise the voter that the voter may file a copy of the documentation with the county voter registration office to permit the provisional ballot to be counted under IC 3-11.7.

SECTION 6. IC 3-11-8-25.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.5. If an individual signs the individual's name and either:

- (1) signs the individual's address; or**
- (2) after December 31, 2005, checks the "Address Unchanged" box;**

on the poll list under section 25 or 25.1 of this chapter and then leaves the polls without casting a ballot or after casting a provisional ballot, the voter may not be permitted to reenter the polls to cast a ballot at the election.

SECTION 7. IC 3-11-8-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. (a) This section does not apply to a list kept by a poll clerk under section 10.5 of this chapter.

(b) A precinct election board may not keep a poll list other than the poll list required by section 25 or 25.1 of this chapter.

SECTION 8. IC 3-11-10-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.2. An absentee voter is not required to provide proof of identification when:**

- (1) mailing, delivering, or transmitting an absentee ballot under section 1 of this chapter; or**
- (2) voting before an absentee board under this chapter.**

SECTION 9. IC 3-11-10-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. **(a)** If an absentee ballot is challenged under section 21 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person. ~~in all other respects~~

(b) Except as provided in subsection (c), the challenge procedure is the same as though the ballot was cast by the voter in person.

(c) An absentee voter is not required to provide proof of identification (as defined in IC 3-5-2-40.5).

(d) If a proper affidavit is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, then the absentee ballot shall be placed in the ballot box.

SECTION 10. IC 3-11.5-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. **(a)** If an absentee ballot is challenged under section 15 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person. ~~in all other respects;~~

(b) Except as provided in subsection (c), the challenge procedure **under this section** is the same as though the ballot was cast by the voter in person.

(c) An absentee voter is not required to provide proof of identification (as defined in IC 3-5-2-40.5).

~~(b)~~ **(d)** If a proper affidavit by a qualified person in the form required by IC 3-11-8-22 is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, the couriers shall return the affidavit to the county election board in the same envelope as the certificate returned under section 9 of this chapter.

~~(c)~~ **(e)** The absentee ballot cast by the challenged voter shall be counted if the county election board makes the findings required under section 11 of this chapter.

SECTION 11. IC 3-11.7-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. **(a)** The precinct election board shall affix to the envelope the challenger's affidavit and the affidavit executed by the provisional voter under section 1 of this chapter.

(b) The form of the envelope is prescribed under IC 3-5-4-8. The envelope must permit a member of a precinct election board to indicate whether the voter has been issued a provisional ballot as the result of a challenge based on the voter's inability or declination to provide proof of identification under IC 3-5-2-40.5.

~~(b)~~ **(c)** Except as provided in subsection ~~(c)~~ **(d)** and in accordance with 42 U.S.C. 15482, the precinct election board shall securely keep the sealed envelope, along with the affidavits affixed to the envelope, in another envelope or container marked "Provisional Ballots".

~~(c)~~ **(d)** This subsection applies to the sealed envelope and the affidavits affixed to the envelope of a provisional voter described in section 1(a)(3) of this chapter. As required by 42 U.S.C. 15482, the precinct election board shall keep the sealed envelope or container separate from the envelope or container described in subsection ~~(b)~~ **(c)**. The envelope or container described in this subsection must be labeled "Provisional Ballots Issued After Regular Poll Closing Hours".

SECTION 12. IC 3-11.7-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a)** Except as provided in section 5 of this chapter, if the county election board determines that all the following apply, a provisional ballot is valid and shall be counted under this chapter:

(1) The affidavit executed by the provisional voter under IC 3-11.7-2-1 is properly executed.

(2) The provisional voter is a qualified voter of the precinct **and has provided proof of identification, if required, under IC 3-10-1 or IC 3-11-8.**

(3) Based on all the information available to the county election board, including:

(A) information provided by the provisional voter;

(B) information contained in the county's voter registration records; and

(C) information contained in the statewide voter registration file;

the provisional voter registered to vote at a registration agency under this article on a date within the registration period.

(b) If the provisional voter has provided information regarding the registration agency where the provisional voter registered to vote, the board shall promptly make an inquiry to the agency regarding the alleged registration. The agency shall respond to the board not later than noon of the first Friday after the election, indicating whether the agency's records contain any information regarding the registration. If the agency does not respond to the board's inquiry, or if the agency responds that the agency has no record of the alleged registration, the board shall reject the provisional ballot. The board shall endorse the ballot with the word "Rejected" and document on the ballot the inquiry and response, if any, by the agency.

~~(c) This subsection applies after December 31, 2003:~~ Except as provided in section 5 of this chapter, a provisional ballot cast by a voter described in IC 3-11.7-2-1(b) is valid and shall be counted if the county election board determines under this article that the voter filed the documentation required under IC 3-7-33-4.5 and 42 U.S.C. 15483 with the county voter registration office not later than the closing of the polls on election day.

SECTION 13. IC 3-11.7-5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. **(a) A voter who:**

- (1) was challenged under IC 3-10-1 or IC 3-11-8 as a result of the voter's inability or declination to provide proof of identification as defined by IC 3-5-2-40.5; and**
- (2) cast a provisional ballot;**

may personally appear before the circuit court clerk or the county election board not later than the deadline specified by section 1 of this chapter for the county election board to determine whether to count a provisional ballot.

(b) Except as provided in subsection (c) or (e), if the voter:
 (1) provides proof of identification (as defined in IC 3-5-2-40.5) to the circuit court clerk or county election board; and

(2) executes an affidavit before the clerk or board, in the form prescribed by the commission, affirming under the penalties of perjury that the voter is the same individual who:

(A) personally appeared before the precinct election board; and

(B) cast the provisional ballot on election day;

the county election board shall find that the voter's provisional ballot is valid and direct that the provisional ballot be opened under section 4 of this chapter and processed in accordance with this chapter.

(c) If the voter executes an affidavit before the circuit court clerk or county election board, in the form prescribed by the commission, affirming under the penalties of perjury that:

(1) the voter is the same individual who:

(A) personally appeared before the precinct election board; and

(B) cast the provisional ballot on election day; and

(2) the voter:

(A) is:

(i) indigent; and

(ii) unable to obtain proof of identification without the payment of a fee; or

(B) has a religious objection to being photographed;

the county election board shall determine whether the voter has been challenged for any reason other than the voter's inability or declination to present proof of identification to the precinct election board.

(d) If the county election board determines that the voter described in subsection (c) has been challenged solely for the inability or declination of the voter to provide proof of identification, the county election board shall:

(1) find that the voter's provisional ballot is valid; and

(2) direct that:

(A) the provisional ballot be opened under section 4 of this chapter; and

(B) processed in accordance with this chapter.

(e) If the county election board determines that a voter described in subsection (b) or (c) has been challenged for a cause other than the voter's inability or declination to provide proof of identification (as defined in IC 3-5-2-40.5), the board shall:

(1) note on the envelope containing the provisional ballot that the voter has complied with the proof of identification requirement; and

(2) proceed to determine the validity of the remaining challenges set forth in the challenge affidavit before ruling on the validity of the voter's provisional ballot.

(f) If a voter described by subsection (a) fails by the deadline for counting provisional ballots referenced in subsection (a) to:

(1) appear before the county election board; and

(2) execute an affidavit in the manner prescribed by subsection (b) or (c);

the county election board shall find that the voter's provisional

ballot is invalid.

SECTION 14. IC 3-11.7-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) If the board determines that the affidavit executed by the provisional voter has not been properly executed, that the provisional voter is not a qualified voter of the precinct, **that the voter failed to provide proof of identification when required under IC 3-10-1 or IC 3-11-8**, or that the provisional voter did not register to vote at a registration agency under this article on a date within the registration period, the board shall make the following findings:

(1) The provisional ballot is invalid.

(2) The provisional ballot may not be counted.

(3) The provisional ballot envelope containing the ballots cast by the provisional voter may not be opened.

(b) If the county election board determines that a provisional ballot is invalid, a notation shall be made on the provisional ballot envelope: "Provisional ballot determined invalid".

Renumber all SECTIONS consecutively.

(Reference is to SB 483 as printed February 8, 2005.)

HEINOLD

Upon request of Senator Heinold the President ordered the roll of the Senate to be called. Roll Call 161: yeas 34, nays 16. Motion prevailed.

SENATE MOTION

(Amendment 483-5)

Madam President: I move that Senate Bill 483 be amended to read as follows:

Page 1, line 4, delete "or documents".

Page 1, line 4, delete "satisfy" and insert "satisfies".

Page 1, delete lines 5 through 17.

Page 2, delete lines 1 through 35, begin a new line block indented and insert:

"(1) The document shows the name of the individual to whom the document was issued, and the name conforms to the name in the individual's voter registration record.

(2) The document:

(A) shows a photograph of the individual to whom the document was issued; or

(B) is one (1) of the documents on the list:

(i) issued by the bureau of motor vehicles under IC 9-24-11-2; and

(ii) used by the bureau as proof of identification for the new issuance of a driver's license, permit, or identification card.

(3) The document includes an expiration date, and the document:

(A) is not expired; or

(B) expired after the date of the most recent general election.

(4) The document was issued by the United States or the state of Indiana.

SECTION 2. IC 3-10-1-7.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.2. (a) A voter who desires to vote an official ballot at a primary election shall provide proof of identification (as defined in IC 3-5-2-40.5).

(b) Before the voter proceeds to vote in a primary election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter must produce the proof of identification before being permitted to sign the poll list.

(c) If:

- (1) the voter is unable or declines to present the proof of identification; or
- (2) a member of the precinct election board determines that the proof of identification presented by the voter does not qualify as proof of identification under IC 3-5-2-40.5; a member of the precinct election board shall challenge the voter as prescribed by IC 3-11-8.

(d) If the voter executes a challenged voter's affidavit under section 9 of this chapter or IC 3-11-8-22, the voter may:

- (1) sign the poll list; and
- (2) receive a provisional ballot."

Page 2, line 37, after "(a)" insert "A voter who desires to vote an official ballot at an election shall provide proof of identification (as defined in IC 3-5-2-40.5).

(b) Before the voter proceeds to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(c) If:

- (1) the voter is unable or declines to present the proof of identification; or
- (2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5; a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(d) If the voter executes a challenged voter's affidavit under section 22 of this chapter, the voter may:

- (1) sign the poll list; and
- (2) receive a provisional ballot.

(e)".

Page 2, line 38, strike "admitted".

Page 2, line 39, strike "to the polls. Upon entering the polls, the" and insert "instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The".

Page 3, line 3, strike "(b)" and insert "(f)".

Page 3, delete lines 11 through 13.

Page 3, line 14, delete "(d)" and insert "(g)".

Page 3, line 22, delete "present" and insert "present, in addition to the proof of identification required under subsection (b)".

Page 3, line 23, delete "(e)" and insert "(h)".

Page 3, line 24, delete "(e)" and insert "(h)".

Page 3, line 25, after "42 U.S.C. 15483," insert "in addition to the proof of identification required under subsection (b)".

Page 3, line 33, delete "(f)" and insert "(i)".

Page 3, line 34, delete "(e)," and insert "(h)".

Page 3, line 39, delete "(g)" and insert "(j)".

Page 3, line 40, delete "(e)" and insert "(h)".

Page 4, line 2, delete "(h)" and insert "(k)".

Page 4, line 6, delete "(i)" and insert "(l)".

Page 4, line 20, delete "(j)" and insert "(m)".

Page 4, line 20, delete "(i):" and insert "(l):".

Page 4, line 26, delete "(k)" and insert "(n)".

Page 4, between lines 29 and 30, begin a new paragraph and insert:

"(b) A voter who desires to vote an official ballot at an election shall provide proof of identification (as defined in IC 3-5-2-40.5).

(c) Before the voter proceeds to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(d) If:

- (1) the voter is unable or declines to present the proof of identification; or
- (2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5; a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(e) If the voter executes a challenged voter's affidavit under section 22 of this chapter, the voter may:

- (1) sign the poll list; and
- (2) receive a provisional ballot."

Page 4, line 30, strike "(b)" and insert "(f)".

Page 4, line 31, strike "admitted to the polls. Upon entering the polls, the" and insert "instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The".

Page 4, line 37, delete "(g)," and insert "(j)".

Page 4, line 39, strike "(c)" and insert "(g)".

Page 5, delete lines 5 through 7.

Page 5, line 8, delete "(e)" and insert "(h)".

Page 5, line 16, delete "(f)" and insert "(i)".

Page 5, line 16, strike "(c):" and insert "(g):".

Page 5, line 22, delete "(g)" and insert "(j)".

Page 5, delete lines 27 through 34, begin a new paragraph and insert:

"SECTION 5. IC 3-11-8-25.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.2. (a) This section applies after December 31, 2005.

(b) The poll clerk or assistant poll clerk shall examine the list provided under IC 3-7-29-1 to determine if the county election board has indicated that the voter is required to provide additional personal identification under 42 U.S.C. 15483 and IC 3-7-33-4.5 before voting in person. If the list (or a certification concerning absentee voters under IC 3-11-10-12) indicates that the voter is required to present this identification before voting in person, the poll clerk shall advise the voter that the voter must present, in addition to the proof of identification required by section 25.1(b) of this chapter, a piece of identification described in subsection (c) to the poll clerk.

(c) As required by 42 U.S.C. 15483, and in addition to the proof of identification required by section 25.1(b) of this chapter, a voter described by IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5 before appearing at the polls on election day must present one (1) of the following documents to the poll clerk:

- (1) A current and valid photo identification.
- (2) A current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

(d) If a voter presents a document under subsection (c), the poll clerk shall add a notation to the list indicating the type of document presented by the voter. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

(e) If a voter required to present documentation under subsection (c) is unable to present the documentation to the poll clerk while present in the polls, the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the voter under IC 3-11.7-2.

(f) The precinct election board shall advise the voter that the voter may file a copy of the documentation with the county voter registration office to permit the provisional ballot to be counted under IC 3-11.7.

SECTION 6. IC 3-11-8-25.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.5. If an individual signs the individual's name and either:

- (1) signs the individual's address; or
- (2) after December 31, 2005, checks the "Address Unchanged" box;

on the poll list under section 25 **or 25.1** of this chapter and then leaves the polls without casting a ballot or after casting a provisional ballot, the voter may not be permitted to reenter the polls to cast a ballot at the election.

SECTION 7. IC 3-11-8-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. **(a) This section does not apply to a list kept by a poll clerk under section 10.5 of this chapter.**

(b) A precinct election board may not keep a poll list other than the poll list required by section 25 **or 25.1** of this chapter.

SECTION 8. IC 3-11-10-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.2. **An absentee voter is not required to provide proof of identification when:**

- (1) mailing, delivering, or transmitting an absentee ballot under section 1 of this chapter; or**
- (2) voting before an absentee board under this chapter.**

SECTION 9. IC 3-11-10-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. **(a)** If an absentee ballot is challenged under section 21 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person. ~~In all other respects~~

(b) Except as provided in subsection (c), the challenge procedure is the same as though the ballot was cast by the voter in person.

(c) An absentee voter is not required to provide proof of identification (as defined in IC 3-5-2-40.5).

(d) If a proper affidavit is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, then the absentee ballot shall be placed in the ballot box.

SECTION 10. IC 3-11.5-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) If an absentee ballot is challenged under section 15 of this chapter, the

absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person. ~~In all other respects,~~

(b) Except as provided in subsection (c), the challenge procedure under this section is the same as though the ballot was cast by the voter in person.

(c) An absentee voter is not required to provide proof of identification (as defined in IC 3-5-2-40.5).

~~(b)~~ **(d)** If a proper affidavit by a qualified person in the form required by IC 3-11-8-22 is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, the couriers shall return the affidavit to the county election board in the same envelope as the certificate returned under section 9 of this chapter.

~~(c)~~ **(e)** The absentee ballot cast by the challenged voter shall be counted if the county election board makes the findings required under section 11 of this chapter.

SECTION 11. IC 3-11.7-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The precinct election board shall affix to the envelope the challenger's affidavit and the affidavit executed by the provisional voter under section 1 of this chapter.

(b) The form of the envelope is prescribed under IC 3-5-4-8. The envelope must permit a member of a precinct election board to indicate whether the voter has been issued a provisional ballot as the result of a challenge based on the voter's inability or declination to provide proof of identification under IC 3-5-2-40.5.

~~(b)~~ **(c)** Except as provided in subsection ~~(c)~~ **(d)** and in accordance with 42 U.S.C. 15482, the precinct election board shall securely keep the sealed envelope, along with the affidavits affixed to the envelope, in another envelope or container marked "Provisional Ballots".

~~(c)~~ **(d)** This subsection applies to the sealed envelope and the affidavits affixed to the envelope of a provisional voter described in section 1(a)(3) of this chapter. As required by 42 U.S.C. 15482, the precinct election board shall keep the sealed envelope or container separate from the envelope or container described in subsection ~~(b)~~ **(c)**. The envelope or container described in this subsection must be labeled "Provisional Ballots Issued After Regular Poll Closing Hours".

SECTION 12. IC 3-11.7-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as provided in section 5 of this chapter, if the county election board determines that all the following apply, a provisional ballot is valid and shall be counted under this chapter:

- (1) The affidavit executed by the provisional voter under IC 3-11.7-2-1 is properly executed.
- (2) The provisional voter is a qualified voter of the precinct **and has provided proof of identification, if required, under IC 3-10-1 or IC 3-11-8.**
- (3) Based on all the information available to the county election board, including:
 - (A) information provided by the provisional voter;
 - (B) information contained in the county's voter registration records; and
 - (C) information contained in the statewide voter registration file;

the provisional voter registered to vote at a registration agency under this article on a date within the registration period.

(b) If the provisional voter has provided information regarding the registration agency where the provisional voter registered to vote, the board shall promptly make an inquiry to the agency regarding the alleged registration. The agency shall respond to the board not later than noon of the first Friday after the election, indicating whether the agency's records contain any information regarding the registration. If the agency does not respond to the board's inquiry, or if the agency responds that the agency has no record of the alleged registration, the board shall reject the provisional ballot. The board shall endorse the ballot with the word "Rejected" and document on the ballot the inquiry and response, if any, by the agency.

(c) ~~This subsection applies after December 31, 2003.~~ Except as provided in section 5 of this chapter, a provisional ballot cast by a voter described in IC 3-11.7-2-1(b) is valid and shall be counted if the county election board determines under this article that the voter filed the documentation required under IC 3-7-33-4.5 and 42 U.S.C. 15483 with the county voter registration office not later than the closing of the polls on election day.

SECTION 13. IC 3-11.7-5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. (a) A voter who:

- (1) was challenged under IC 3-10-1 or IC 3-11-8 as a result of the voter's inability or declination to provide proof of identification as defined by IC 3-5-2-40.5; and
- (2) cast a provisional ballot;

may personally appear before the circuit court clerk or the county election board not later than the deadline specified by section 1 of this chapter for the county election board to determine whether to count a provisional ballot.

(b) Except as provided in subsection (c) or (e), if the voter:

- (1) provides proof of identification (as defined in IC 3-5-2-40.5) to the circuit court clerk or county election board; and
- (2) executes an affidavit before the clerk or board, in the form prescribed by the commission, affirming under the penalties of perjury that the voter is the same individual who:

(A) personally appeared before the precinct election board; and

(B) cast the provisional ballot on election day;

the county election board shall find that the voter's provisional ballot is valid and direct that the provisional ballot be opened under section 4 of this chapter and processed in accordance with this chapter.

(c) If the voter executes an affidavit before the circuit court clerk or county election board, in the form prescribed by the commission, affirming under the penalties of perjury that:

(1) the voter is the same individual who:

(A) personally appeared before the precinct election board; and

(B) cast the provisional ballot on election day; and

(2) the voter:

(A) is:

(i) indigent; and

(ii) unable to obtain proof of identification without

the payment of a fee; or

(B) has a religious objection to being photographed; the county election board shall determine whether the voter has been challenged for any reason other than the voter's inability or declination to present proof of identification to the precinct election board.

(d) If the county election board determines that the voter described in subsection (c) has been challenged solely for the inability or declination of the voter to provide proof of identification, the county election board shall:

(1) find that the voter's provisional ballot is valid; and

(2) direct that the provisional ballot be:

(A) opened under section 4 of this chapter; and

(B) processed in accordance with this chapter.

(e) If the county election board determines that a voter described in subsection (b) or (c) has been challenged for a cause other than the voter's inability or declination to provide proof of identification (as defined in IC 3-5-2-40.5), the board shall:

(1) note on the envelope containing the provisional ballot that the voter has complied with the proof of identification requirement; and

(2) proceed to determine the validity of the remaining challenges set forth in the challenge affidavit before ruling on the validity of the voter's provisional ballot.

(f) If a voter described by subsection (a) fails by the deadline for counting provisional ballots referenced in subsection (a) to:

(1) appear before the county election board; and

(2) execute an affidavit in the manner prescribed by subsection (b) or (c);

the county election board shall find that the voter's provisional ballot is invalid.

SECTION 14. IC 3-11.7-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) If the board determines that the affidavit executed by the provisional voter has not been properly executed, that the provisional voter is not a qualified voter of the precinct, ~~that the voter failed to provide proof of identification when required under IC 3-10-1 or IC 3-11-8,~~ or that the provisional voter did not register to vote at a registration agency under this article on a date within the registration period, the board shall make the following findings:

(1) The provisional ballot is invalid.

(2) The provisional ballot may not be counted.

(3) The provisional ballot envelope containing the ballots cast by the provisional voter may not be opened.

(b) If the county election board determines that a provisional ballot is invalid, a notation shall be made on the provisional ballot envelope: "Provisional ballot determined invalid".

Remember all SECTIONS consecutively.

(Reference is to SB 483 as printed February 8, 2005.)

LUTZ

Motion failed.

SENATE MOTION
(Amendment 483-6)

Madam President: I move that Engrossed Senate Bill 483 be amended to read as follows:

Page 1, line 3, delete "'Proof'" and insert "(a) Except as provided in subsection (b), 'proof'".

Page 1, line 4, delete "or documents".

Page 1, line 4, delete "satisfy" and insert "satisfies".

Page 1, delete lines 5 through 17.

Page 2, delete lines 1 through 35, begin a new line block indented and insert:

"(1) The document shows the name of the individual to whom the document was issued, and the name conforms to the name in the individual's voter registration record.

(2) The document shows a photograph of the individual to whom the document was issued.

(3) The document includes an expiration date, and the document:

(A) is not expired; or

(B) expired after the date of the most recent general election.

(4) The document was issued by the United States or the state of Indiana.

(b) In addition to the document described in subsection (a), a voter may establish proof of identification by executing under the penalties of perjury an affidavit, on a form prescribed by the commission, swearing or affirming that the voter is the individual whose name appears on the poll list.

SECTION 2. IC 3-10-1-7.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.2. (a) A voter who desires to vote an official ballot at a primary election shall provide proof of identification (as defined in IC 3-5-2-40.5).

(b) Before the voter proceeds to vote in a primary election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter must produce the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification presented by the voter does not qualify as proof of identification under IC 3-5-2-40.5; a member of the precinct election board shall challenge the voter as prescribed by IC 3-11-8.

(d) If the voter executes a challenged voter's affidavit under section 9 of this chapter or IC 3-11-8-22, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot."

Page 2, line 37, after "(a)" insert "A voter who desires to vote an official ballot at an election shall provide proof of identification (as defined in IC 3-5-2-40.5).

(b) Before the voter proceeds to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines

that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5; a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(d) If the voter executes a challenged voter's affidavit under section 22 of this chapter, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot.

(e)".

Page 2, line 38, strike "admitted".

Page 2, line 39, strike "to the polls. Upon entering the polls, the" and insert "instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The".

Page 3, line 3, strike "(b)" and insert "(f)".

Page 3, delete lines 11 through 13.

Page 3, line 14, delete "(d)" and insert "(g)".

Page 3, line 22, delete "present" and insert "present, in addition to the proof of identification required under subsection (b),".

Page 3, line 23, delete "(e)" and insert "(h)".

Page 3, line 24, delete "(e)" and insert "(h)".

Page 3, line 25, after "42 U.S.C. 15483," insert "in addition to the proof of identification required under subsection (b),".

Page 3, line 33, delete "(f)" and insert "(i)".

Page 3, line 34, delete "(e)," and insert "(h),".

Page 3, line 39, delete "(g)" and insert "(j)".

Page 3, line 40, delete "(e)" and insert "(h)".

Page 4, line 2, delete "(h)" and insert "(k)".

Page 4, line 6, delete "(i)" and insert "(l)".

Page 4, line 20, delete "(j)" and insert "(m)".

Page 4, line 20, delete "(i):" and insert "(l):".

Page 4, line 26, delete "(k)" and insert "(n)".

Page 4, between lines 29 and 30, begin a new paragraph and insert:

"(b) A voter who desires to vote an official ballot at an election shall provide proof of identification (as defined in IC 3-5-2-40.5).

(c) Before the voter proceeds to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(d) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5; a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(e) If the voter executes a challenged voter's affidavit under section 22 of this chapter, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot."

Page 4, line 30, strike "(b)" and insert "(f)".

Page 4, line 31, strike "admitted to the polls. Upon entering the polls, the" and insert "instructed by a member of the precinct election board to proceed to the location where the poll clerks

are stationed. The".

Page 4, line 37, delete "(g)," and insert "(j)".

Page 4, line 39, strike "(c)" and insert "(g)".

Page 5, delete lines 5 through 7.

Page 5, line 8, delete "(e)" and insert "(h)".

Page 5, line 16, delete "(f)" and insert "(i)".

Page 5, line 16, strike "(c):" and insert "(g):".

Page 5, line 22, delete "(g)" and insert "(j)".

Page 5, delete lines 27 through 34, begin a new paragraph and insert:

"SECTION 5. IC 3-11-8-25.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.2. (a) This section applies after December 31, 2005.

(b) The poll clerk or assistant poll clerk shall examine the list provided under IC 3-7-29-1 to determine if the county election board has indicated that the voter is required to provide additional personal identification under 42 U.S.C. 15483 and IC 3-7-33-4.5 before voting in person. If the list (or a certification concerning absentee voters under IC 3-11-10-12) indicates that the voter is required to present this identification before voting in person, the poll clerk shall advise the voter that the voter must present, **in addition to the proof of identification required by section 25.1(b) of this chapter**, a piece of identification described in subsection (c) to the poll clerk.

(c) As required by 42 U.S.C. 15483, **and in addition to the proof of identification required by section 25.1(b) of this chapter**, a voter described by IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5 before appearing at the polls on election day must present one (1) of the following documents to the poll clerk:

- (1) A current and valid photo identification.
- (2) A current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

(d) If a voter presents a document under subsection (c), the poll clerk shall add a notation to the list indicating the type of document presented by the voter. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

(e) If a voter required to present documentation under subsection (c) is unable to present the documentation to the poll clerk while present in the polls, the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the voter under IC 3-11.7-2.

(f) The precinct election board shall advise the voter that the voter may file a copy of the documentation with the county voter registration office to permit the provisional ballot to be counted under IC 3-11.7.

SECTION 6. IC 3-11-8-25.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.5. If an individual signs the individual's name and either:

- (1) signs the individual's address; or
- (2) after December 31, 2005, checks the "Address Unchanged" box;

on the poll list under section 25 **or 25.1** of this chapter and then leaves the polls without casting a ballot or after casting a provisional ballot, the voter may not be permitted to reenter the polls to cast a ballot at the election.

SECTION 7. IC 3-11-8-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. **(a) This section does not apply to a list kept by a poll clerk under section 10.5 of this chapter.**

(b) A precinct election board may not keep a poll list other than the poll list required by section 25 **or 25.1** of this chapter.

SECTION 8. IC 3-11-10-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.2. **An absentee voter is not required to provide proof of identification when:**

(1) mailing, delivering, or transmitting an absentee ballot under section 1 of this chapter; or

(2) voting before an absentee board under this chapter.

SECTION 9. IC 3-11-10-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. **(a)** If an absentee ballot is challenged under section 21 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person. ~~In all other respects~~

(b) Except as provided in subsection (c), the challenge procedure is the same as though the ballot was cast by the voter in person.

(c) An absentee voter is not required to provide proof of identification (as defined in IC 3-5-2-40.5).

(d) If a proper affidavit is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, then the absentee ballot shall be placed in the ballot box.

SECTION 10. IC 3-11.5-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. **(a)** If an absentee ballot is challenged under section 15 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person. ~~In all other respects;~~

(b) Except as provided in subsection (c), the challenge procedure **under this section** is the same as though the ballot was cast by the voter in person.

(c) An absentee voter is not required to provide proof of identification (as defined in IC 3-5-2-40.5).

~~(b)~~ **(d)** If a proper affidavit by a qualified person in the form required by IC 3-11-8-22 is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, the couriers shall return the affidavit to the county election board in the same envelope as the certificate returned under section 9 of this chapter.

~~(c)~~ **(e)** The absentee ballot cast by the challenged voter shall be counted if the county election board makes the findings required under section 11 of this chapter.

SECTION 11. IC 3-11.7-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. **(a)** The precinct election board shall affix to the envelope the challenger's affidavit and the affidavit executed by the provisional voter under section 1 of this chapter.

(b) The form of the envelope is prescribed under IC 3-5-4-8. The envelope must permit a member of a precinct election board to indicate whether the voter has been issued a provisional ballot as the result of a challenge based on the voter's inability or declination to provide proof of identification under IC 3-5-2-40.5.

~~(b)~~ (c) Except as provided in subsection ~~(c)~~ (d) and in accordance with 42 U.S.C. 15482, the precinct election board shall securely keep the sealed envelope, along with the affidavits affixed to the envelope, in another envelope or container marked "Provisional Ballots".

~~(c)~~ (d) This subsection applies to the sealed envelope and the affidavits affixed to the envelope of a provisional voter described in section 1(a)(3) of this chapter. As required by 42 U.S.C. 15482, the precinct election board shall keep the sealed envelope or container separate from the envelope or container described in subsection ~~(b)~~ (c). The envelope or container described in this subsection must be labeled "Provisional Ballots Issued After Regular Poll Closing Hours".

SECTION 12. IC 3-11.7-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as provided in section 5 of this chapter, if the county election board determines that all the following apply, a provisional ballot is valid and shall be counted under this chapter:

- (1) The affidavit executed by the provisional voter under IC 3-11.7-2-1 is properly executed.
- (2) The provisional voter is a qualified voter of the precinct **and has provided proof of identification, if required, under IC 3-10-1 or IC 3-11-8.**
- (3) Based on all the information available to the county election board, including:
 - (A) information provided by the provisional voter;
 - (B) information contained in the county's voter registration records; and
 - (C) information contained in the statewide voter registration file;

the provisional voter registered to vote at a registration agency under this article on a date within the registration period.

(b) If the provisional voter has provided information regarding the registration agency where the provisional voter registered to vote, the board shall promptly make an inquiry to the agency regarding the alleged registration. The agency shall respond to the board not later than noon of the first Friday after the election, indicating whether the agency's records contain any information regarding the registration. If the agency does not respond to the board's inquiry, or if the agency responds that the agency has no record of the alleged registration, the board shall reject the provisional ballot. The board shall endorse the ballot with the word "Rejected" and document on the ballot the inquiry and response, if any, by the agency.

(c) ~~This subsection applies after December 31, 2003.~~ Except as provided in section 5 of this chapter, a provisional ballot cast by a voter described in IC 3-11.7-2-1(b) is valid and shall be counted if the county election board determines under this article that the voter filed the documentation required under IC 3-7-33-4.5 and 42 U.S.C. 15483 with the county voter registration office not later than the closing of the polls on election day.

SECTION 13. IC 3-11.7-5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. (a) A voter who:

- (1) was challenged under IC 3-10-1 or IC 3-11-8 as a result of the voter's inability or declination to provide proof of identification as defined by IC 3-5-2-40.5; and

- (2) cast a provisional ballot;

may personally appear before the circuit court clerk or the county election board not later than the deadline specified by section 1 of this chapter for the county election board to determine whether to count a provisional ballot.

- (b) Except as provided in subsection (c) or (e), if the voter:

- (1) provides proof of identification (as defined in IC 3-5-2-40.5) to the circuit court clerk or county election board; and

- (2) executes an affidavit before the clerk or board, in the form prescribed by the commission, affirming under the penalties of perjury that the voter is the same individual who:

- (A) personally appeared before the precinct election board; and

- (B) cast the provisional ballot on election day;

the county election board shall find that the voter's provisional ballot is valid and direct that the provisional ballot be opened under section 4 of this chapter and processed in accordance with this chapter.

(c) If the voter executes an affidavit before the circuit court clerk or county election board, in the form prescribed by the commission, affirming under the penalties of perjury that:

- (1) the voter is the same individual who:

- (A) personally appeared before the precinct election board; and

- (B) cast the provisional ballot on election day; and

- (2) the voter:

- (A) is:

- (i) indigent; and

- (ii) unable to obtain proof of identification without the payment of a fee; or

- (B) has a religious objection to being photographed;

the county election board shall determine whether the voter has been challenged for any reason other than the voter's inability or declination to present proof of identification to the precinct election board.

(d) If the county election board determines that the voter described in subsection (c) has been challenged solely for the inability or declination of the voter to provide proof of identification, the county election board shall:

- (1) find that the voter's provisional ballot is valid; and

- (2) direct that the provisional ballot be:

- (A) opened under section 4 of this chapter; and

- (B) processed in accordance with this chapter.

(e) If the county election board determines that a voter described in subsection (b) or (c) has been challenged for a cause other than the voter's inability or declination to provide proof of identification (as defined in IC 3-5-2-40.5), the board shall:

- (1) note on the envelope containing the provisional ballot that the voter has complied with the proof of identification requirement; and

- (2) proceed to determine the validity of the remaining challenges set forth in the challenge affidavit before ruling on the validity of the voter's provisional ballot.

(f) If a voter described by subsection (a) fails by the deadline for counting provisional ballots referenced in subsection (a) to:

(1) appear before the county election board; and
 (2) execute an affidavit in the manner prescribed by subsection (b) or (c);
 the county election board shall find that the voter's provisional ballot is invalid.

SECTION 14. IC 3-11.7-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) If the board determines that the affidavit executed by the provisional voter has not been properly executed, that the provisional voter is not a qualified voter of the precinct, **that the voter failed to provide proof of identification when required under IC 3-10-1 or IC 3-11-8**, or that the provisional voter did not register to vote at a registration agency under this article on a date within the registration period, the board shall make the following findings:

- (1) The provisional ballot is invalid.
- (2) The provisional ballot may not be counted.
- (3) The provisional ballot envelope containing the ballots cast by the provisional voter may not be opened.

(b) If the county election board determines that a provisional ballot is invalid, a notation shall be made on the provisional ballot envelope: "Provisional ballot determined invalid".

Renumber all SECTIONS consecutively.

(Reference is to SB 483 as printed February 8, 2005.)

LUTZ

Upon request of Senator Lutz the President ordered the roll of the Senate to be called. Roll Call 162: yeas 18, nays 32. Motion failed. The bill was ordered engrossed.

Senate Bill 498

Senator Server called up Senate Bill 498 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 523

Senator Wyss called up Senate Bill 523 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 539

Senator M. Young called up Senate Bill 539 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 572

Senator Simpson called up Senate Bill 572 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

ENGROSSED SENATE BILLS ON THIRD READING

Engrossed Senate Bill 175

Senator Dillon called up Engrossed Senate Bill 175 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning

criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 163: yeas 49, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Neese, Ulmer, and Reske.

SENATE MOTION

Madam President: I move that Engrossed Senate Bill 360, which is eligible for third reading, be returned to second reading for purposes of amendment.

MILLER

Motion prevailed.

ENGROSSED SENATE BILLS ON THIRD READING

Engrossed Senate Bill 603

Senator Landske called up Engrossed Senate Bill 603 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

5:40 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 5:43 p.m., with Senator Riegsecker in the Chair.

Roll Call 164: yeas 50, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Frizzell and C. Brown.

Engrossed Senate Bill 626

Senator Clark called up Engrossed Senate Bill 626 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning riverboat certificates of inspection.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 165: yeas 46, nays 3. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed

the Secretary to inform the House of the passage of the bill. House sponsor: Representative Whetstone.

Senator Riegsecker yielded the gavel to Senator Garton.

SENATE MOTION

Madam President: I move that Senator Howard be added as coauthor of Engrossed Senate Bill 498.

SERVER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Craycraft be added as coauthor of Engrossed Senate Bill 603.

LANDSKE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Howard be added as coauthor of Engrossed Senate Bill 175.

DILLON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Kruse and Drozda be added as coauthors of Engrossed Senate Bill 76.

M. YOUNG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Hume be added as second author of Senate Concurrent Resolution 34.

GARD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator R. Young be added as second author of Senate Bill 126.

ZAKAS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Howard be added as second author of Senate Bill 242.

LONG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Craycraft be added as coauthor of Engrossed Senate Bill 400.

CLARK

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Lawson be added as coauthor of Senate Bill 640.

MRVAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Miller be added as coauthor of Senate Bill 205.

DILLON

Motion prevailed.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolution 33 and the same is herewith returned to the Senate.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolutions 15 and 16 and the same are herewith transmitted for further action.

M. CAROLINE SPOTTS
Principal Clerk of the House

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Tuesday, February 22, 2005.

LONG

Motion prevailed.

The Senate adjourned at 5:52 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate